

REMARKS

This Application has been reviewed in light of the Final Office Action mailed March 13, 2009. Claims 1, 3-8, 10-14 and 16-22 are pending in this Application. Claims 1, 3-8, 10-14 and 16-22 stand rejected. Claim 22 is hereby cancelled without prejudice or disclaimer. Claims 2, 9 and 15 were previously cancelled without prejudice or disclaimer. Applicants amend Claims 1, 8, and 14 and respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 101

Claims 8, 10-14, and 16-21 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Examiner relies on the specification in support of the rejections:

The computer-usable [media] defined by the applicant's specification, see page 18, lines 16-24, is not limited to tangible embodiments. The specification recites: "computer-usable media may include... communications media such as wires, optical fibers, microwaves, radio waves, and other electromagnetical or optical carriers."

(Office Action, Page 2, ¶ 3).

The rejected claims, however, recite, "a *tangible* computer-usable medium." While the specification arguably identifies some computer-usable media which are *not* tangible, the claim language as it stands identifies a smaller set of computer-usable media, namely, those which *are tangible*. Tangible is a common English adjective used in its conventional sense in the pending claims, i.e., to modify the term "computer-usable medium." For at least these reasons, Applicants respectfully submit that the claims as pending satisfy the requirements of 35 U.S.C. § 101 and request the Examiner reconsider his rejection of these claims on that basis.

Rejections under 35 U.S.C. §103

Claims 1, 3-5, 8, 10-12, 14, 16-18 and 21 stand rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No.

2007/0011283 by Kenneth Edgar Brown et al. (“*Brown*”) in view of U.S. Patent 6,115,743 issued to Daniel Edward Cowan et al. (“*Cowan*”). Claims 6, 7, 13, 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Brown* and *Cowan* in view of U.S. Patent No. 7,133,906 issued to Chuck Price et al. (“*Price*”). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on *ex post* reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Limitations of the Independent Claims Are Not Disclosed by the Cited References

After the current amendment, Independent Claims 1, 8, and 14 recite:

in response to the user input, automatically testing whether the network conforms to one or more hardware interconnect rules;

and

if the network fails to conform to the one or more hardware interconnect rules, generating a message that identifies the one or more failed hardware interconnect rules.

These limitations are not disclosed, taught, or suggested in any of the cited references. For at least this reason, Independent Claims 1, 8, and 14 are allowable over the cited references. In addition, because the remaining claims depend from one of these allowable independent claim, they are likewise allowable.

The Cited References Are Improperly Combined

The Examiner relies on the combination of *Brown* and *Cowan* to reject the claims as previously submitted, stating:

One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to implement the testing of interconnections between networked devices and reporting thereof as taught by Cowan in combination with the device attribute validation method taught by Brown. One of ordinary skill in the art would have been motivated to combine Brown and Cowan wherein Cowan teaches the utilization of a graphical user interface to provide easy management and monitoring of a network (col. 1, line 66-col.2, lines 10).

(Office Action, Page 4).

In fact, *Brown* claims to provide "a graphical user interface that allows a system administrator to easily administer configuration settings for different computer systems and platforms on a computer network." (*Brown*, Abstract). The Examiner has not identified any reason that one with ordinary skill in the art would seek to modify *Brown*'s system for administering individual systems and platforms on a network with *Cowan*'s system for "managing and monitoring a network." (Office Action, Page 4) (emphasis added).

The system taught by *Brown* is focused on "automatically updat[ing] configuration settings" of an endpoint system "to match the settings of a model system." (*Brown*, [0025]). In contrast, the current claims are drawn to "the validation of a network" and recite validation steps such as "automatically testing an interconnection among the plurality of devices in the network," and, "automatically testing whether the network conforms to one or more hardware interconnect rules." There is no teaching or motivation provided by the cited references to modify *Brown* to include these features. For at least these reasons, the pending claims are allowable.

CONCLUSION

Applicants appreciate the Examiner's careful review of the application. Applicants have made an earnest effort to place this case in condition for examination and allowance. For the foregoing reasons, Applicants respectfully request reconsideration of the rejections and full allowance of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2642.

Respectfully submitted,
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